

**TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES**  
**Tuesday, July 20, 2021 at 7 pm**

**A. Call to Order:** Chairman Auclair opened the meeting at 7 pm.

**B. Roll Call: Present:** Paul Auclair, Amanda Berticelli, Bill Kenny, Lorraine Rardin, Jason Record, Joshua Saunders & Ann Sawchuck, **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant.

**C. Approval of the Minutes of the June 15, 2021, meeting:** Board members noted minor corrections to the draft minutes. Mike Schwindt requested a revision to a statement attributed to him in the minutes and Ms. Silberman agreed the statement should be revised. Mr. Saunders moved to adopt the minutes as amended, seconded by Mr. Record and **VOTED, 7 yeas, unanimous - motion carries.**

**D. Staff Site Plan Approvals:**

**1. Amendment to Leaning Pine Registered Caregiver Facility at 210 Gray Rd. to add a retaining wall and a concrete pad for air conditioning units.** Ms. Nixon reported that this was an amendment to an approved site plan for a registered caregiver facility that has been approved to add a retaining wall and concrete pad for air conditioning units.

Mr. Record asked if there was a conflict with the moratorium regarding marijuana. Ms. Nixon explained that the Town Council has set a date for a public hearing for a moratorium and it is in effect but this project was approved prior to the moratorium.

**F. Hearings and Presentations**

**1. Public Hearing: Major Subdivision Review for a proposed 50-unit residential condominium building to be located at 102 U.S. Route 1. The 3.16-acre parcel is shown on Tax Assessor Map R01 Lot 13B in the Office Commercial (South) Retail, Restaurant, Multiplex Dwelling, Mixed-Use Overlay District. Owner: 100 US Route 1, LLC. Representative, Dan Diffin, P.E., Sevee and Maher Engineers.**

Chairman Auclair introduced the item and shared a memo from the Town Planner to explain that this could be considered for both preliminary and final approval tonight.

David Spellman, Cumberland resident, acknowledged and thanked people involved with the project and explained his history of owning the property. Mr. Spellman spoke to the need for housing in the community.

Dan Diffin, PE - Sevee & Maher Engineers, described the project and displayed an aerial plan of the site. Mr. Diffin referred to project review comments and noted that changes have been made to the plan to address these. The building will be a five-story fifty-condominium building with thirteen one-bedroom condos, twenty-nine two-bedroom condos and eight three-bedroom condos. Mr. Diffin explained the utility, gas and sewer access along with the lighting, parking and grading. Mr. Diffin reviewed the approved permits and showed architectural plans of building.

Chairman Auclair asked if they have the Portland Water District letter. Mr. Diffin replied that they don't and noted that the water district doesn't give out the letters easily. Chairman Auclair asked about the challenges of the site and if there are any concerns from an engineering perspective. Mr. Diffin said that the challenge was fitting everything into the space and noted that from an engineering standpoint, the project is in pretty good shape.

Mr. Record asked about ventilation and fire suppression for the parking below the building and commented that the exit from under the building seems tight. Mr. Diffin replied that there is a 24' wide drive aisle and this will be like pulling into a parking space. Mr. Letellier said that the drive into the garage will be one-way and will be a closed design. There will be a ventilation system and CO detectors throughout with a type 1 fireproof floor. The under building parking will not extend for the whole depth. The whole building will be fire suppressed.

Mr. Record asked if the Planning Board has the authority to limit the number of bedrooms and Ms. Nixon answered no.

Ms. Saunders referred to a comment about emergency vehicle access and Ms. Nixon replied that the Fire Chief is okay with this. Mr. Saunders noted the potential for preliminary and final approval and asked if public notice requirements were met. Ms. Nixon replied that the agenda item is "major subdivision review". This doesn't prevent the Board from doing final review. Mr. Saunders asked how Portland Water District is doing capacity to serve letters now. Mr. Diffin explained that the Water District will give a verbal okay but will not give a letter until the final plan is approved. Mr. Saunders asked about sewer capacity. Ms. Nixon said there is a letter from the Town. Mr. Saunders noted that the finding needs to reflect the sewer capacity.

Ms. Sawchuck said references in the materials for the size of the building are 12,800 square feet and asked if this is each floor. Mr. Diffin replied yes, this is the building footprint. Ms. Sawchuck said that in several places the project is called Evergreen Ridge. Mr. Diffin said those references are typos and the name was changed.

Chairman Auclair opened the public hearing.

Sandra Porter, 106 US Route 1, said she and her husband are abutters north to the project. Ms. Porter expressed concern with blasting damage and interruptions to her working from home. Mr. Diffin replied that a blasting permit will be needed and a pre-blast survey will be done so the abutter will be covered and protected. The construction noise will happen during the workday. Mr. Diffin estimates there will likely be four to six weeks of rock removal and six to eight months of building construction.

Glen Porter, 106 US Route 1, expressed concern with the proposed pond's influence on a stream by his property. Mr. Diffin identified the location of the pond and the stream on a plan of the project and noted that there will be no increase in peak runoff at the point of the property line and Mr. Porter should see no additional water making its way towards the house.

Chairman Auclair closed the Public Hearing.

Chairman Auclair asked if Board members object to doing the review as a final review and there were no objections.

Mr. Saunders moved that based on the scale and the details of the project that the Board waive the requirement for a high-intensity soil survey, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion passes.**

Mr. Saunders moved that based on the scale and the details of the project that the Board waive the requirement for a hydrogeologic evaluation, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion passes.**

Mr. Saunders moved that based on the scale and the details of the project that the Board waive the requirement for a market study, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion passes.**

Mr. Saunders moved that based on the size and the details of the project that the Board waive the requirement of showing trees greater than 10 inches in caliper on the plans, seconded by Ms. Rardin and **VOTED, 7 yeas, unanimous - motion passes.**

Chairman Auclair reviewed the proposed findings of fact and amendments were recommended. Mr. Saunders moved to adopt the findings of fact as amended, seconded by Mr. Kenny. Mr. Saunders inquired about a DEP permit by rule. Mr. Diffin replied that they have the DEP stormwater permit by rule and the NRPA approvals. The motion was then **VOTED, 7 yeas, unanimous - motion passes.**

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

A. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of the land above sea level and its relation to the flood plains;
- B. The nature of soils and subsoil and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

**The parcel is above sea level and not within a flood plain. The project will use public water and sewer. The Maine Natural Areas program identified no rare, threatened, or endangered plant species within the project area. Maine Department of Fisheries and Wildlife has not mapped designated essential or significant wildlife habitats in the project area. The Board finds the standards of this section have been met.**

B. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

**The subdivision will be served by public water. The applicant has requested a capacity to serve letter from the PWD which will be a final condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

C. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

**The subdivision will be served by public water. The applicant has requested a capacity to serve letter from PWD which will be a final condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

D. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

**The erosion and sedimentation control plan has been reviewed and approved by the Town Engineer. The Board finds the standards of this section have been met.**

E. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

**Traffic generation data was provided that showed 22 trips will be generated in the weekday a.m. peak hour and 27 trips in the weekday p.m. peak hour. This is below the 100 peak hour trips that would require further review by MDOT. There are no high crash locations within the area or other issues identified for access onto US Route 1. The Board finds the standards of this section have been met for final approval.**

F. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

**The parcel will be serviced by a 160' extension of the Town's 2 inch force main along US 1 which will convey the approximately 8,220 GPD of anticipated wastewater. A capacity to serve letter has been received by the Town Manager. The Board finds the standards of this section have been met.**

G. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

**The multiplex units will have a dumpster that will be emptied by a private waste hauler. The Board finds the standards of this section have been met.**

H. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

**A letter is on file from Maine Historic Preservation Commission stating that there are no evident historic features on the site. There is a letter from the Department of Inland Fisheries and Wildlife stating there is no evidence of rare or endangered species. The Board finds the standards of this section have been met.**

I. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

**The plans have been reviewed and approved by the Town's peer review engineer and town staff. Any outstanding issues raised by the Town Engineer will be addressed as a condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

J. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

**Technical Capacity: Technical capacity is evidenced by the applicant's use of a professional civil engineer, landscape architect, and building architect.**

**Financial Capacity: The applicant has provided a letter dated May 17, 2021 from Katahdin Trust Company stating that the applicant has an established commercial banking relationship with the lender and that subject to normal and routine conditions, the lender would finance the project.**

**The Board finds the standards of this section have been met.**

K. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title

38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

**The proposed project will not adversely affect the quality or quantity of groundwater. There is no septic system on site. The Board finds the standards of this section have been met.**

L. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

**The project will be served by public sewer. There will be no septic system on site. The Board finds the standards of this section have been met.**

M. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

**Based on a review of the Federal Insurance Rate Maps, the parcel is located in Zone C- Areas of Minimal Flooding. The Board finds the standards of this section have been met.**

N. Storm water. The proposed subdivision will provide for adequate storm water management;

**A stormwater management report was submitted and reviewed and approved by the Town's peer review engineer. A stormwater permit by rule application has been submitted to MEDEP.**

**The Board finds the standards of this section have been met.**

O. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

**All wetlands within the proposed multiplex are outlined in the project plan set. There are minimal impacts to the wetlands to accommodate the stream crossing for the proposed access drive. The Board finds the standards of this section have been met.**

P. River, stream or brook: Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]

**An unnamed tributary to Chenery Brook is located within the proposed multiplex and outlined in the project plan set. The Board finds the standards of this section have been met.**

SECTION 300 - AQUIFER PROTECTION (if applicable): The parcel is not located in the Aquifer Protection District. **The Board finds the standards of this section have been met.**

Route 1 Design and Performance Standards: **Attachment K of the application packet provides evidence that the standards have been met.**

The Board reviewed the proposed conditions of approval. Mr. Saunders suggested adding a condition regarding water. Mr. Saunders moved to approve preliminary and final subdivision review for a 50-unit residential condominium building to be located at 102 U.S. Route 1, tax assessor map R01 Lot 13B in the office commercial south (retail, restaurant, multiplex dwelling, mixed use overlay district subject to the limitation of approval, the standard condition of approval and the eleven conditions of approval, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion passes.**

**Limitation of Approval:** Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period,



the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

**Standard Condition of Approval:** This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**Conditions of Approval:**

1. A preconstruction conference shall be held prior to the start of construction.
2. All outstanding fees shall be paid prior the preconstruction conference.
3. A performance guarantee in an amount acceptable to the Town Manager and Town Engineer shall be provided prior to the preconstruction conference. In addition, a check for 2% of the cost of public improvements shall be provided prior to the preconstruction conference.
4. All clearing limits shall be clearly flagged by the applicant and inspected and approved by the town engineer prior to the preconstruction conference.
5. There shall be no indoor or outdoor storage of any hazardous materials.
6. The applicant shall obtain a sign permit from the Town of Cumberland that shows consistency with the Route 1 Design Standards.
7. The applicant shall comply with all state and local fire regulations.
8. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
9. The Town Attorney shall review and approve the draft HOA documents prior to the preconstruction conference.
10. Any outstanding issues raised by the Town Engineer shall be addressed prior to the preconstruction conference.
11. A capacity to serve letter from Portland Water District showing that there is sufficient water will be provided prior to the preconstruction conference.

**2. Public Hearing: Site Plan Review for placement of five portable classrooms each containing 1,815 sf and a total of 9,075 sf with two located at Mabel I Wilson School, 353 Tuttle Rd., Tax Assessor Map U11, Lot 9 and three located at Greely Middle School, 351 Tuttle Rd., Tax Assessor Map U11, Lot 1. Representative: Patrick Carroll, Carroll Associates, Applicant: MSAD #51.**

Mr. Record recused himself from participation on this item because it is a school item.

Mr. Record noted that he does not think this item specifically causes any conflict.

Chairman Auclair introduced the item.

Superintendent Jeff Porter described the project to have 11 portable classrooms placed on campus in addition to the modular units that they already have. Mr. Porter explained that there are six and one half units being brought in. Four rooms would be at Mabel I. Wilson School and seven rooms at Greely Middle School. Mr. Porter said one of the rooms is currently at the transportation facility and will be brought to the Middle School. There are four and one half units all together.

Doug Breer, Stephen Blatt Architects, noted that Mr. Carroll is out of Town and he is very familiar with the project and will present it. Mr. Breer said that the original

submission was for five portables. There will be a sixth portable at the middle school. Mr. Breer said he has amended the site plan. Mr. Breer displayed the site plan and identified the locations of the six units. The sixth unit is currently located at the bus garage and is 14' x 42'. None of the units will have plumbing. The units will have underground power, communications and fire alarm systems. The units are ADA compliant.

Mr. Kenny asked if these units are temporary and Mr. Breer replied yes. Chairman Auclair asked how many students the six units will accommodate. Mr. Breer replied that each classroom can have twenty students. The two units at Mabel I. Wilson school each have two classrooms and each unit could have up to 40 kids.

Mr. Kenny pointed out that the public hearing was advertised for five units and asked if the Board can act on the sixth unit tonight. The Board discussed their ability to approve the sixth unit tonight and agreed to add a condition of approval to speak to this if the Town Attorney allows the Board's approval.

Ms. Saunders asked at what point of adding impervious surface would an amendment be needed to the MDEP stormwater permit. Mr. Breer responded that these units are already going on impervious surface - the ball fields are considered impervious.

Ms. Sawchuck noted that she has seen the two units being installed at Mabel I. Wilson School and asked if that is correct. Mr. Porter replied that he has seen them there too. Ms. Sawchuck asked if the ones at the Middle School are there also. Mr. Porter replied that he hasn't seen any. Ms. Sawchuck asked if the best the Town can do is to have units with no plumbing. Mr. Porter replied that the District would prefer plumbing but this is what the company had. Mr. Porter explained that the District is scrambling to get units and everyone wants them right now because of distancing. The District wants to make sure to have enough space for smaller classes.

Mr. Porter referred to the question about units being temporary and said the intent is for one year but there are enrollment issues so it's possible that they will need to keep them longer. Ms. Sawchuck asked if the Fire Chief has any concerns that there's not going to be any sprinklers. Mr. Breer replied that this has been submitted to the State Fire Marshall for approval but they're taking eight to ten weeks.

Ms. Sawchuck asked about exterior lighting. Don Foster, District Facilities Director, described existing lighting on campus and said each of these buildings will have a light over each door. Mr. Saunders noted that the plans do not show exterior lighting and asked if the units have exterior lights. Mr. Foster replied yes, by the doors. Mr. Saunders noted that the findings of facts say no exterior lighting. Mr. Breer said they do have some detailed electrical plans on the units.

Ms. Sawchuck asked how many portable classrooms there will be at MIW and Mr. Foster replied there are ten now and this will be sixteen.

Ms. Nixon asked about a photometric plan and suggested there be a condition of approval for this. Mr. Foster said the existing parking lot and building lights go off at midnight. The modular lights are on a switch and will be mostly off, unless they have parent-teacher conferences, etc. Mr. Foster said these will be low level egress lights.

Chairman Auclair opened the public hearing. There were no public comments.  
Chairman Auclair closed the public hearing.

Mr. Kenny said he is going to vote against this for the reason that the school, last time just built them and then came to the Planning Board. This time they didn't follow the procedures. Mr. Kenny continued that they're starting to put up units assuming they can all be approved. People in the Town have to go through all the procedures but it seems if the Town of the school wants to do something, they just go ahead and do it. Mr. Kenny thinks this sets a bad precedent and wants to go on record that it's a lousy way to do it.

Chairman Auclair reviewed the proposed findings of fact. Amendments to the findings were proposed.

Mr. Saunders moved to adopt the findings of fact as amended, seconded by Ms. Berticelli and **VOTED, 6 yeas, 1 recused (Record) - motion passes.**

The Board discussed conditions of approval. Mr. Saunders noted that the findings of fact regarding the lighting need to be amended. Mr. Saunders moved to amend the findings of fact so that section H regarding exterior lighting finds that the Board will require a condition of approval that an electrical plan is needed in regard to the exterior lighting of the proposed units, seconded by Ms. Berticelli and **VOTED, 6 yeas, 1 recused (Record) - motion passes.**

Mr. Saunders moved to adopt the findings of fact as further amended, seconded by Mr. Kenny and **VOTED, 6 yeas, 1 recused (Record) - motion passes.**

**Findings of Fact, Chapter 229 - Site Plan Review Section 10 Approval Standards and Criteria:** The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

**A. Utilization of the Site:** Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

**The additional portable classroom space being added to existing impervious areas of the MSAD's campus will not affect any environmentally sensitive areas. Based on the above findings of fact, the Board finds the standards of this section have been met.**

**B. Traffic, Circulation and Parking**

**(1) Traffic Access and Parking.** Vehicular access to and from the development must be safe and convenient.

**(a)** Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

**(b)** Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.



- (c) The grade of any proposed drive or street must be not more than + 3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (d) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (e) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- (f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (g) Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (h) The following criteria must be used to limit the number of driveways serving a proposed project:
- (1) No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - (2) No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

## **(2) Access way Location and Spacing**

Access ways must meet the following standards:

- (a) Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- (b) Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**(3) Internal Vehicular Circulation.** The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- (a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- (b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- (c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

**(4) Parking Layout and Design.** Off street parking must conform to the following standards:

- (a) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- (b) All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line.

Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

(c) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

(d) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(e) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

(f) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

#### **(5) Building and Parking Placement**

(a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

(b) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

**(6) Pedestrian Circulation:** The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

**There are no proposed changes to the site circulation or parking involved in this project. Based on the above findings of fact, the Board finds the standards of this section have been met.**

#### **C. Stormwater Management and Erosion Control**

**(1) Stormwater Management.** Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

(a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

(b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(c) The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

(d) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

(e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

(f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

## **(2) Erosion Control**

(a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

(b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

**There are no proposed changes to the existing stormwater system. Grading and drainage will remain as it currently exists. There will be minimal ground disturbance as the buildings will be placed over existing developed surface. Temporary erosion control measures consisting of stone drip strips around the perimeter of the buildings will be installed as per the Maine Erosion and Sediment Control Handbook. Based on the above findings of fact, the Board finds the standards of this section have been met.**

## **(D) Water, Sewer, and Fire Protection**

**(1) Water Supply Provisions:** The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

**No water connections are required.**

**(2) Sewage Disposal Provisions:** The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

**No sewer service is required.**

**(3) Utilities:** The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

**Utility connections will be from existing school buildings.**

**(4) Fire Protection:** The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance" once the applicant has met the design requirement of the Town's Fire Protection Ordinance.

**There will be full access for emergency vehicles and personnel. Based on the above findings of fact, the Board finds the standards of this section been met.**

## **E. Water Protection**

**(1) Groundwater Protection:** The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

**(2) Water Quality:** All aspects of the project must be designed so that:

**(a)** No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**(b)** All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

**(3) Aquifer Protection:** If the site is located within the Town Aquifer Protection Area, a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

**The site is not located within the Town Aquifer Protection Area. There will be no storage of fuel, chemicals, chemical or industrial wastes or biodegradable raw materials. Nor will there be any discharge of liquid, gaseous or solid materials. Based on the materials included in the application, the Board finds that the standards of this section have been met.**

**F. Floodplain Management:** If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

**The site is not located in a mapped floodplain. Based on the above finding of fact, the Board finds the standards of this section have been met.**

**G. Historic and Archaeological Resources:** If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

**There are letters on file from previous site plan applications) stating that the Maine Historic Preservation Commission has not found there to be any historical or archaeological resources present on the site of the school campus. Based on the above finding of fact, the Board finds the standards of this section have been met.**

**H. Exterior Lighting:** The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

**The portable classrooms will have an exterior light. With a proposed condition of approval regarding receipt of the photometric analysis, the Board finds the standards of this section have been met.**

#### **I. Buffering and Landscaping**

**(1) Buffering of Adjacent Uses:** The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

**(2) Landscaping:** Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the

particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. **The proposed project is located within the interior of the site. No additional buffering or landscaping is required. Based on the above findings of fact, the Board finds the standards of this section have been met.**

**J. Noise:** The development must control noise levels such that it will not create a nuisance for neighboring properties.

**The portables will not emit noise. Based on the above findings of fact, the Board finds the standards of this section have been met.**

**K. Storage of Materials**

(1) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

(2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

(3) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

**There are no additional storage or waste removal systems proposed for this project. Based on the above findings of fact, the Board finds the standards of this section have been met.**

**L. Capacity of the Applicant:** The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

**Technical Ability:** The applicant has retained a licensed landscape architect and surveyor to assist in preparing the site plan.

**Financial Capacity:** The leasing of the portables will be paid for from the operating budget of the MSAD.

**Based on the above findings of fact, the Board finds the standards of this section have been met.**

**M. Design and Performance Standards**

(1) Route 100 Design Standards

(2) Route 1 Design Standards

(3) Town Center District Design and Performance Standards

(4) Village Mixed Use Performance Standards.

**None of the above are applicable to this project.**

The Board discussed the proposed conditions of approval and recommended the addition of two more.

Mr. Saunders moved that the Board approve an amendment to an approved site plan for the placement of five portable classrooms each containing 1,815 square feet for a total of 9,075 square feet as well as one additional unit of 588 square feet to be located at Greely Middle School with two of the aforementioned five portable classrooms to be at Mabel I. Wilson School, 353 Tuttle Rd., tax assessor map U11, lot 9 and three of the aforementioned portable classrooms located at Greely Middle School, 351 Tuttle Rd., tax assessor map U11, Lot 1 subject to the standard conditions of approval, the limitation of approval and the four proposed conditions of approval, seconded by Ms. Berticelli and **VOTED, 5 yeas, 1 nay (Kenny), 1 abstained (Record) - motion passes.**

**Standard Conditions of Approval:** This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the



Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**Limitation of Approval:** Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) 1 year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

**Conditions of Approval:**

1. A building permit shall be issued by the CEO prior to the placement of the portables.
2. Any required permits from the Fire Chief or State Fire Marshall's Office will be submitted prior to the building permit being issued.
3. Information relating to the level of lighting will be reviewed by the Town Planner.
4. Town Attorney authorization is required regarding Planning Board approval for an additional 588 square foot building the applicant has requested that was not advertised for. The additional building will be required to go through staff site plan review if not allowed for approval by the Planning Board.

**3. Public Hearing: Amendment to an approved Site Plan: Storey Time Learning Center and Afterschool Care to increase the number of children from 20 to 32. 133 Middle Rd., Tax Map R01, Lot 28, in the Rural Residential 2 zoning district. Owner & Applicant: Jaime Kiesow.**

Chairman Auclair introduced the item.

Ms. Nixon noted that the applicant will need to provide evidence that the existing septic system will accommodate an increased number of children beyond thirty and staff beyond three.

Jamie Storey Kiesow, owner of Storey Time Learning and After Care and Storey Time Too, explained the request. The State has licensed the building for up to 32 children. Ms. Kiesow talked about the impacts of COVID to local childcare programs and shared a history of her program. Ms. Kiesow said she does not expect to see an increase in traffic as many of the families have multiple children. Ms. Kiesow said that about a third of the children are in diapers and there are no guidelines as to how diapering children, who do not use the septic system, fit into the equation. Ms. Kiesow explained that as the diapering children move up in the program, other diapering children move into the program so approximately a third of the children will not use the septic system.

Chairman Auclair asked if there is a plan to modify the septic system. Ms. Storey-Kiesow said they could but they would rather go with thirty children than expand the septic system.

Mr. Record asked if the Board has the authority to approve thirty-two. Ms. Nixon replied that there could be a condition of approval that they could go up to thirty-two if evidence of septic capacity is increased.

Chairman Auclair opened the public hearing.

Chairman Auclair read a letter received from Isabel Schonewald and a portion of a letter from Sarah Soule.

Good afternoon members of the Town of Cumberland Planning Board-

I am unable to attend the Planning Board meeting this evening, June 15, 2021, so I am sending this email to offer comments on Agenda Item F.4 - Public Hearing regarding daycare centers and nursery schools. My name is Be (Isabel) Schonewald and I have resided at 129 Middle Road in Cumberland for over 28 years. I recognize the current need for high-quality child daycare and after-school care. In general terms, I do not take exception to the intent of the proposed changes to the zoning ordinance that allows daycare/after-school care centers to apply to increase the number of children allowed at a facility. I suspect that State regulations set limits on the maximum number of children who can attend a daycare center based on the facility's indoor (square footage) space, which may result in not all Cumberland facilities being able to increase their capacity despite changes to the Town ordinance.

I am pleased that the proposed changes to the zoning ordinance set forth that applications to increase the capacity of a daycare/after-school care center are subject to site plan review. Since increasing the capacity of a facility has the potential to adversely impact traffic safety on public roads, as well as result in nuisance noise, visual impacts, and/or light "pollution," *I strongly encourage the language of the amended zoning ordinance be clarified to require either a "major staff review" or "planning board site plan review" as set forth in Chapter 229 - Site Plan Ordinance of the Town of Cumberland, Maine.* I encourage this clarification so that: 1. The police chief can assess traffic safety issues; and 2. Neighbors within 500 feet of a daycare/after-school care center will be promptly notified of a pending application and be given the opportunity to comment prior to the Town Planner or Planning Board issuing their decision on the application.

Thank you for your consideration of my thoughts and suggested clarification of the ordinance language.

Regards ISABEL V. (BE) SCHONEWALD, P.E., 129 Middle Road, Cumberland, ME 04021

To whom it may concern-

7/20/21

My name is Sarah Soule and my husband and I fully support the growth of Storeytyme Learning Center and Storeytyme Too. We must continue providing the high quality childcare programming we have in years past. Regarding the impact it has on its direct neighborhood and larger community I can speak as a teacher, a parent, and a neighbor. I have spent this last year of 2020-2021 as one of the three teachers at this preschool. My daughter has been enrolled in the toddler and then preschool program for over a year and will continue to attend through 2023. I also happen to live at 147 Middle rd. Cumberland-just 4 houses down.

As a neighbor I can say the most taxing challenge is not the Middle Rd. noise or the noise of children playing, but the constant background low rumble of Route 1 and 295 traffic. These major roads behind us really at times are loud and overwhelming. I understand that some neighbors would rather have a childcare center anywhere but in their own neighborhood, but it is already ingrained too deeply in our community to deny that the greater benefits outweigh the potential inconvenience.

As a teacher I have noticed that out of all the children we provide services for I can only think of two who were from Yarmouth as opposed to the vast majority who are from Cumberland and North Yarmouth.

This tells me that we are much more than a stopping point for families to use from other towns on their way through to work. On the contrary, we are serving very local families and fulfilling a dire need to keep our community strong and thriving. Another common thread I see is that the majority of the children come from multi-sibling families who have relied on some combination of our infant, toddler, preschool and aftercare programming. So families driving in my neighborhood are actually cutting down on commutes and traffic flow because more often than not they are picking up and dropping off multiple children.

Even throughout the difficult times of the pandemic, it says a lot that we still had full classrooms. Towards the end of the year when at least two other local childcare facilities closed their doors- our phone was ringing off the hook with desperate families hoping to arrange future childcare and hoping to join our overwhelmingly long waiting list. To hear that desperation was difficult and easily relatable. We cannot take for granted things which have become harder to come by like toilet paper, lumber, the ability to work and childcare.

What our learning center provides is indeed a valuable resource to nurture a healthy and well-functioning community. I see that truth through the eyes of a teacher and parent. I have seen firsthand the gratitude from families as we did keep our doors open and supported each other through difficult times to the best of our abilities. There is no doubt in my mind that Storeytime Learning Center and Aftercare and Storeytime Too need to remain a stable and consistent multi-age institution for our local families.

Thank you for hearing my observations and perspectives. Sincerely, Sarah Soule

Charles Agnew, 5 Butterworth Farm Rd., said that the noise of gleeful children playing is in no way a disturbance and he lives directly across the street. Mr. Agnew appreciates what Storey Time does to support the community and help raise children.

Ms. Sawchuck noted that there is not a noise ordinance in Cumberland.

Chairman Auclair closed the public hearing.

Mr. Saunders moved that due to fact that the site plan is not proposed to change, the Board waive the reading of the findings of fact, seconded by Mr. Kenny and **VOTED, 7 years, unanimous - motion passes.**

Mr. Saunders moved that the Board adopt the findings of fact as written, seconded by Mr. Kenny and **VOTED, 7 years, unanimous - motion passes.**

**Findings of Fact: Section 229-10, Approval Standards and Criteria:** The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

**A. Utilization of the Site.** The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. **The proposed daycare will utilize an existing one story house and garage. The garage will be renovated for additional classroom space. There will be no excavation required for buildings, but a 18' wide access drive, turn-a-round and parking area (with reclaim asphalt) will be added. The Planning Board finds the standards of this section have been met.**

**B. Traffic, Circulation and Parking:**

1. Traffic Access and Parking. Vehicular access to and from the development must be safe and convenient.

a. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

- b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- c. The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- d. The intersection of any access/egress drive or proposed street must function:
  - 1. at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or
  - 2. at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- g. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- h. The following criteria must be used to limit the number of driveways serving a proposed project:
  - 1. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - 2. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

**Waivers have been granted for the driveway grading and the parking area setback. With the approved waivers the Planning Board finds the standards of this section have been met.**

2. Accessway Location and Spacing. Accessways must meet the following standards:

- a. Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- b. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**The proposed entrance location complies with the standards of this section. The Planning Board finds the standards of this section have been met.**

3. Internal Vehicular Circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- a. Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- b. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- c. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- d. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

**As stated above, the three employee parking spaces will be located off the entrance drive. The driveway is 2 cars wide which will allow for a car to move beside a parked car that is dropping off a child. The existing entrance, driveway and parking meet the above standards. The Planning Board finds the standards of this section have been met.**

4. Parking layout and design. Off street parking must conform to the following standards:

a. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

b. All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

c. Parking stalls and aisle layout must conform to the following standards;

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

e. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

f. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

**There is parking for the employees and adequate space for cars to park in the driveway with room for other cars to pass by. The Planning Board finds the standards of this section have been met.**

5. Building and parking placement.

a. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between the road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, e

b. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five to 10 feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

**There is an existing house and attached garage on site that will be used for the daycare center.**

**Three new parking spaces are shown on the site plan. A waiver has been granted for buffering and with the approved waiver the Planning Board finds the standards of this section have been met.**

6. Pedestrian Circulation. The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.



**The drop-off location is close to the main entrance to the daycare which is located on the rear of the building, away from Middle Road. No new pedestrian facilities are required. The Planning Board finds the standards of this section have been met.**

C. Stormwater Management and Erosion Control.

1. Stormwater Management. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

a. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

b. Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

c. The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

d. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

e. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

f. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

g. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**Based on the new site plan and response to Town Engineer's comments the stormwater for the property and the driveway will be graded such that stormwater will discharge to the rear of the property and not to abutting properties to the north or south. The Planning Board finds the standards of this section have been met.**

2. Erosion Control.

a. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

b. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time. (Editor's Note: See also Ch. 242, Stormwater Management.)

**The applicant has noted that Storey Brothers will be contracted and will use standard construction best management practices necessary during the construction as needed. The Planning Board finds the standards of this section have been met.**

D. Water, Sewer and Fire Protection.

1. Water Supply Provisions. The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue

burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

**The daycare will utilize public water. A letter from the Portland Water District indicating that they have adequate capacity to serve the project has been received. The Planning Board finds the standards of this section have been met.**

2. Sewage Disposal Provisions. The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules. **There is an HHE-200 and an approved permit from the local plumbing inspector for an existing septic system that will adequately serve the needs of the proposed use. The Planning Board finds the standards of this section have been met.**

3. Utilities. The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

**There is existing overhead power to the building that will be used. The Planning Board finds the standards of this section have been met.**

4. Fire Protection. The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance once the applicant has met the design requirements of the Town's Fire Protection Ordinance.

**There is public water to the site. There is a fire hydrant in front of the property. The Planning Board finds the standards of this section have been met.**

#### **E. Water Protection.**

**1. Groundwater Protection.** The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

**The proposed use complies with the above requirements. The Planning Board finds the standards of this section have been met.**

**2. Water Quality.** All aspects of the project must be designed so that:

**a.** No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**b.** All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

**There will be no hazardous materials stored on site that would affect water quality. The Planning Board finds the standards of this section have been met.**

**3. Aquifer Protection.** If the site is located within the areas designated as aquifer protection (AP) on the Official Aquifer Protection Map, a positive finding by the board (if Staff Review, The Town Planner or Staff Review committee) that the proposed plan will not adversely affect the aquifer, is required in accordance with the standards set forth in Chapter 315, Article V, Aquifer Protection, of this Code.

N/A

**F. Floodplain Management.** If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

**According to the FEMA Flood Insurance Rate Map the subject property is located in Zone C (area of minimal flooding.) The Planning Board finds the standards of this section have been met.**

**G. Historic and Archaeological Resources.** If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

**The site had been developed as a residence with an attached garage and unattached garage and shed. There are no apparent historic or archaeological resources on the site. The Planning Board finds the standards of this section have been met.**

**H. Exterior Lighting.** The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

**With the proposed Condition of Approval on the lighting plan the Planning Board finds the standards of this section have been met.**

**I. Buffering of Adjacent Uses.**

**1. Buffering of Adjacent Uses.** The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

**The Applicant has proposed to buffer the abutting property to the north with a screen fence and the property to the south with existing vegetation. The Planning Board finds the standards of this section have been met.**

**2. Landscaping.** Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. **There are existing trees and plants between the daycare center building and play area and abutting properties. The Planning Board finds the standards of this section have been met.**

**J. Noise.** The development must control noise levels such that it will not create a nuisance for neighboring properties.

**The proposed use will have hours of operation of 7:00 a.m. to 5:30 p.m. Monday through Friday. Children will be outside in the play area during limited times and they will be under full supervision by staff. The Planning Board finds the standards of this section have been met.**

**Trash will be stored inside. There will be no dumpster on site. There are no safety hazards on the site. The Planning Board finds the standards of this section have been met.**

**K. Storage of Materials.**

**1.** Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

**2.** All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

**3.** Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

L. Capacity of the Applicant. The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

**Financial Capacity is evidenced by a letter dated 7/12/17 from Bath Savings Institution stating that they will provide a line of credit for the cost of the renovations required.**

**Technical Capacity is evidenced by the utilization of an attorney.**

**The Planning Board finds the standards of this section have been met.**

M. Design and performance standards.

1. Route 100 Design Standards (if applicable). All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ Districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals.

N/A

2. Route 1 Design Guidelines (if applicable). All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines.

N/A

The Board discussed the proposed conditions of approval. Mr. Saunders suggested striking the condition regarding noise because it cannot be enforced.

Mr. Saunders moved to approve amendment to an approved Site Plan for Storey Time Learning Center and Afterschool Care to increase the number of children from 20 to 32 at 133 Middle Rd., tax map R01, Lot 28, subject to the limitation of approval, the standard condition of approval and the three proposed conditions of approval, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion passes.**

**Limitation of Approval:** Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

**Standard Condition of Approval:** This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimis changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**Conditions of Approval**

1. That all fees paid prior to issuance of a building permit.
2. That all requirements of the Cumberland Fire Chief and Maine Fire Marshall's office be complied with.
3. That the number of children not exceed thirty (30) and the number of staff not exceed three (3) without expansion of the existing septic system This expansion will require a plumbing permit by the Town Code Enforcement Officer.

**4. Public Hearing: Recommendation to the Town Council on Amendments to the Cumberland Subdivision Ordinance Chapter 250, Sec. 250-6 (Conservation Subdivision Standards).D.7; and to Sec. 250-8 (Prohibited uses of common open space).D and E; and to Sec. 250-9 (Ownership, management, legal protection and maintenance of common open space in a conservation subdivision).A(1) &**

**B(1)(b); and to Section 250-13 (General subdivision procedures) B.1; and to Section 250-14 (Procedure for subdivisions in the RR1 or RR2 Districts).A & D.**

Chairman Auclair introduced the item. Ms. Nixon explained that Mike Schwindt, who was on the committee that drafted the ordinance, feels that there are some weaknesses in the ordinance and the changes proposed are appropriate. Ms. Nixon noted that there is a concern about making things more restrictive.

Mr. Schwindt outlined the proposed amendments and answered questions from the Board.

Denny Gallaudet spoke about the Forest Stewardship Council (FSC). Mr. Gallaudet said they (the Lands and Conservation Commission) are seeking some standard that all can understand. The FSC standards make good sense. Mr. Gallaudet said they are not asking for FSC certification, they are asking that the forester puts together plans that have some relation to the FSC standard. Mr. Saunders shared his concerns with a management plan.

The Board discussed the proposed amendments.

Mr. Saunders asked about allowing conservation subdivision as an option in all zones.

Mr. Record said he thinks it is too soon to overhaul the ordinance.

Mr. Record moved that the Board recommend to the Town Council to not approve amendments to the Cumberland Subdivision Ordinance Chapter 250, Sec. 250-6.D.7; and to Sec. 250-8.D and E; and to Sec. 250-9.A.1 & B.1.b; and to Section 250-13.B.1; and to Section 250-14.A & D and that the Council instead establish a subcommittee to consider changes to those sections, seconded by Mr. Kenny.

Chairman Auclair opened the public hearing. There were no public comments. Chairman Auclair closed the public hearing.

The proposed motion was then **VOTED, 7 yeas, unanimous - motion passes.**

**5. Public Hearing: Recommendation to the Town Council on Amendments to the Cumberland Site Plan Ordinance Chapter 229, Sec. 229-6(Major Staff Review).A; and to Appendix C (Submission Requirements) to change the number of copies of an application packet to 2 full size paper sets and an electronic application packet.**

Chairman Auclair introduced the item.

Chairman Auclair opened the public hearing. There were no public comments and the public hearing was closed.

Mr. Saunders moved that the Planning Board recommend to the Town Council the amendments to the Cumberland Site Plan Ordinance Chapter 229, Sec. 229-6.A; and to appendix C to change the number of copies of an application packet to 2 full size paper sets and an electronic application packet and to make a similar change to Cumberland Subdivision Ordinance Section 250 appendix D, seconded by Ms. Sawchuck and **VOTED, 7 yeas, unanimous - motion passes.**



**G. Administrative Matters/New Business:** Mr. Record asked about an upcoming growth workshop. Ms. Nixon said that the Planning Board will be meeting with the Town Council to talk about growth and development. This may be at the next Planning Board meeting depending on the agenda.

Mr. Record referred to how the Board handled the school application and said it would be very easy, when the school would come before the Board, to rubber stamp things and that is not what happened and it was nice to see.

Mr. Saunders asked if there are any consequences to applicants who overstepped their bounds and started a project. The Board cannot deny a project because the applicant already started working on it. Chairman Auclair said the Code Enforcement Officer would be the one to go to the Manager or Town Attorney and start fining. Mr. Saunders said that an applicant runs a risk, if they don't get an approval, of any expense they have made and they may have to revert the property back to the original condition. Mr. Saunders said he agrees with Mr. Kenny's sentiment being upset with the school but he doesn't know that the Board has the ability to do anything other than say "we're upset with the way you keep doing this". Mr. Record said that Mr. Longley could arrive on site as soon as work starts on something that wasn't yet approved and tell them to stop and fines could be involved. Ms. Nixon agreed.

**H. Adjournment:** Mr. Record moved to adjourn the meeting at 9:56 pm, seconded by Ms. Rardin and **VOTED, 7 yeas, unanimous - motion passes.**

**A TRUE COPY ATTEST:**

\_\_\_\_\_  
**Paul Auclair, Board Chair**

\_\_\_\_\_  
**Christina Silberman, Admin. Asst.**